

1984 WL 249931 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 16, 1984

\*1 R. Ken King, Esquire  
General Counsel  
S.C. Department of Mental Health  
2414 Bull Street  
Columbia, South Carolina 29201

Dear Ken:

You have inquired whether the South Carolina Department of Mental Health may pay its employees cash advances to cover the cost of meals while traveling in-state on Department business. Your particular inquiry concerned expenditures for meals made during the 1983-1984 fiscal year of the State. Accordingly, we have concluded that pursuant to the 1983-84 Appropriations Act (Act 151 of 1983) this procedure for advancing meal money is not permitted.<sup>1</sup>

Section 134 of Act 151 of 1983 provides, among other things, that the salaries of State employees 'shall be in full for all services rendered, and no perquisites of employment shall be allowed in addition thereto.' Whether payment of an employee's meal expenses is a perquisite of office prohibited by § 134 need not be answered, however, since pursuant to § 136 of the Act payment of certain travel and subsistence expenses incurred by State employees is specifically authorized.<sup>2</sup> Generally, where as here, a statute directs that a thing may be done in one manner it ordinarily implies that it shall not be done in any other manner. [Fletcher v. Paige, 124 Mont. 114, 220 P.2d 484 \(1950\).](#)

Section 136 provides that travel and subsistence expenses shall be allowed in accordance with the provisions of that section. Section 136(A) provides that '[t]he employee shall also be reimbursed for the actual expenses incurred in the obtaining of meals . . . .' [emphasis added.] The use of the term 'reimburse' is indicative of the legislative intent that payment of meals will occur only after the occurrence of the expenditure by the state employee.

Moreover, § 136(K) reflects this legislative intent. This provision provides authority for the advancement of meal expense money to State employees:

The Budget and Control Board is directed to develop and publish rules and regulations pertaining to the advancing of travel expenses and no State agency shall make such advances except under the rules and regulations as published.

The Budget and Control Board in accordance with this mandate promulgated R19-101.19, Rules and Regulations of the Board. R19-101.19(A) proscribes the advancement of travel expenses 'without specific approval of the Budget and Control Board.' Additionally, the remaining subparts of R19-101.19 prescribe certain requisites to the Board's approval of cash advances for subsistence. Application of these established criteria would prohibit the providing of cash advances by the Department of Mental Health to employees for lunch expenses in most ordinary situations.

The promulgation of R19-101.19, together with its approval by the General Assembly pursuant to the South Carolina Administrative Procedures Act [§ 1-23-120], reflects an administrative interpretation of Section 136 of Act 151 by the Budget and Control Board, the agency charged with its implementation. There exists a strong presumption that such interpretation by the Budget and Control Board is correct. [Faile v. S.C. Employment Security Commission, 267 S.C. 536, 230 S.E.2d 219 \(1976\); 2A Sutherland Statutory Construction, § 49.04 \(4th Ed. 1973\).](#)

\*2 Section 136 provides the sole authority within the Appropriations Act for payment of the Department's employees' meal expenses. A fair reading of § 136, together with the administrative interpretation of this provision by the Budget and Control Board, concludes that ordinarily meal expenses incurred by a State employee shall be 'reimbursed.' Section 136(K) provides authority for payment of such expenses in advance; however, the Budget and Control Board pursuant to its promulgated regulations, does not ordinarily permit cash advances for lunch expenses incurred in a one day trip.

You contend that reimbursement to the employee for meal expenses is burdensome to the accounting division of the Department and that many Department employees receive very low salary, and thus, the lunch expense creates a financial burden upon the employee. While this may be true, such cannot expand the limited authority to pay meal expenses provided in Section 136 of Act 151. Moreover, the fact that on some occasions employees of the Department will be on duty during meal times does not exempt them from the reimbursement provisions of § 136. As noted above, § 136 of Act 151 of 1983 appears to provide the exclusive authority for payment of meal expenses incurred by a state employee.

Very truly yours,

Edwin E. Evans  
Senior Assistant Attorney General

#### Footnotes

- 1 The relevant provisions within the 1984-85 Appropriations Act [H3267] are similar to those within the 1983-84 Act discussed herein. Thus the conclusion reached herein is applicable as well to cash advances for expenditures incurred during fiscal year 1984-85.
- 2 We note as well that 'nurses and attendants' at the Department of Mental Health are exempted from the general prohibitory language of § 134.

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